

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

NOV 01 2016 *AS*

Simeon Washa Amen Ra, Ex rel
SIMEON LEWIS
Plaintiff

vs.
INTERNAL REVENUE SERVICE,
UNITED STATES
Defendant, Respondent

THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

Honorable John Z. Lee

JURY TRIAL DEMANDED

MOTION TO RECUSE

Now comes the above named Plaintiff, Simeon Washa Amen Ra, and humbly request, moves to recuse Honorable Judge John Z. Lee from the above entitled matter under 28 USCS Sec. 455. Title 28 U.S.C. § 455, contains a provision (§ 455 a) that calls for a federal judge to be disqualified not only when he is biased against a party, but whenever a reasonable, disinterested observer would think he might be. Further, the judge has a legal duty to disqualify himself even if there is no motion asking for his disqualification. The Seventh Circuit Court of Appeals further stated that "We think that this language [455(a)] imposes a duty on the judge to act *sua sponte*, even if no motion or affidavit is filed." *Balistrieri*, at 1202.

"State courts, like federal courts, have a constitutional obligation to safeguard personal liberties and to uphold federal law."

"Recusal under Section 455 is self-executing; a party need not file affidavits in support of recusal and the judge is obligated to recuse herself *sua sponte* under the stated circumstances." *Taylor v. O'Grady*, 888 F.2d 1189 (7th Cir. 1989).

I. RECUSAL FOR APPEARANCE OF PARTIALITY

After reviewing the most recent chain of events and acts of this court, Plaintiff has reach a decision and has no other choice but to ask the presiding Judge to recuse himself for the above and below stated reasons:

1. On October 19, 2016, Assistant U.S. Attorney Bradly A. Sarnell sent Plaintiff the following email:

Dear Mr. Amen Ra:

I will be filing a motion to continue the Status Hearing currently scheduled for October 26, 2016, at 9:00 a.m. until either October 27, 2016, at 9:00 a.m. or November 1, 2016, at 9:00 a.m. Do you consent to the change in date or do you oppose it? If you consent, which of the two dates would you prefer?

Regards,

Bradley A. Sarnell

Trial Attorney

U.S. Department of Justice, Tax Division

Civil Trial Section - Northern Region

P.O. Box 55

Washington, DC 20044

Phone: (202) 307-1038

[Bradley.A.Sarnell@usdoj.gov]

2. On October 20, 2016, Plaintiff sent the following response email:

Dear Mr. Sarnell

No i do not consent.

The court has already change the hearing date three times without any regard for my injury or work schedule from 08/17/16 to 08/25/16/ to sixty days out on 10/25/16 and once again to 10/26/16. The company i work for is currently taking 85% of my pay based on the unconscionable acts of the IRS. Your administrative bureau has completely destroyed my family and life. I do not have another day to give. Thank you for contacting me in regards to your motion to continue the hearing but again i must say to you that i do not consent to a change in the hearing date. Justice delayed is justice denied.

Thank you for your time in advance.

[Attached as Exhibit 1]

3. On October 21, 2016, Plaintiff received the following minute order **[DKT # 46]** **[Attached as Exhibit 2]**:

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Friday, October 21, 2016:
MINUTE entry before the Honorable John Z. Lee: The status hearing set for 10/26/16 is reset to 12/21/16 at 9:00 a.m. Mailed notice(ca,)

The hearing dates have been cancelled, most of the time, the night before and as follows, 08/17/16 then to 08/25/16, then to 10/25/16 then to 10/26/16 and now to 12/21/16. These actions have raised great concern and caution for Plaintiff. Plaintiff states that he has not received any notices of motion from defendant or any reason as to why the first three hearings were cancelled.

Twice the hearings have been pushed back sixty (60) days. The courts action in continuous rescheduling is also causing and allowing further financial hardship, injury and emotional distress to Plaintiff and his family. The court has absolutely been made aware that Plaintiffs pay is currently being garnished at a rate of 85%, since 04/25/15, which is excessive and cruel but it appears that there has been no consideration.

Courts have repeatedly held that positive proof of the partiality of a judge is not a requirement, only the appearance of partiality. *Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847, 108 S.Ct. 2194 (1988) (what matters is not the reality of bias or prejudice but its appearance); *United States v. Balistrieri*, 779 F.2d 1191 (7th Cir. 1985) (Section 455(a) "is directed against the appearance of partiality, whether or not the judge is actually biased.") ("Section 455(a) of the Judicial Code, 28 U.S.C. §455(a), is not intended to protect litigants from actual bias in their judge but rather to promote public confidence in the impartiality of the judicial process.").

II. RULE 63-CANON 3

4. A Judge Should Perform the Duties of the Office Fairly, Impartially and Diligently. The duties of judicial office take precedence over all other activities. In performing the duties prescribed by law, the judge should adhere to the following standards:

(A) Adjudicative Responsibilities.

(1) A judge should be faithful to, and maintain professional competence in, the law and should.....

(4) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. A judge may make reasonable efforts, consistent with the law and court rules, to facilitate the ability of **self represented** litigants to be fairly heard.

(5). A judge should dispose promptly of the business of the court.

In disposing of matters promptly, efficiently, and fairly, a judge must **demonstrate due regard** for the rights of the parties to be heard and to have issues resolved without unnecessary cost or delay. A judge should monitor and supervise cases to reduce or eliminate dilatory practices, avoidable delays, and unnecessary costs.

(B) Administrative Responsibilities.

(5) A judge should take appropriate action upon learning of reliable evidence indicating the likelihood that a judge's conduct contravened this Code or a **lawyer violated applicable rules of professional conduct.**

(C) Disqualification.

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances in which:

"A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where: (a) the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of disputed evidentiary facts concerning the proceeding;"

Plaintiff has become fearful that there is a bias and prejudice against him in that he has another case (14-cv-07173) which is now on appeal wherein Plaintiff raised several crucial constitutional violations. The presiding judge in that case is also the judge in this case.

In 1994, the U.S. Supreme Court held that "Disqualification is required if an objective observer would entertain reasonable questions about the judge's impartiality. If a judge's attitude or state of mind leads a detached observer to conclude that a fair and impartial hearing is unlikely, the judge must be disqualified." *Liteky v. U.S.*, 114 S.Ct. 1147, 1162 (1994).

"The neutrality requirement helps to guarantee that life, liberty, or property will not be taken on the basis of an erroneous or distorted conception of the facts or the law."

The above is applicable to this court by application of Article VI of the United States Constitution and *Stone v Powell*, 428 US 465, 483 n. 35, 96 S. Ct. 3037, 49 L. Ed. 2d 1067 (1976).

III. COURTS REFUSAL TO ADDRESS FRAUD UPON THE COURT ALLEGATIONS

5. Plaintiff challenged the authenticity of documents submitted by Defendant. Plaintiff demanded that the proceedings be halted and requested an emergency hearing to address the fraud upon the court. It appears that these allegations were not given any consideration either.

"Plaintiff will be demanding that these proceedings be halted until the documents in question be examined in open court. Plaintiff will also be demanding that the Assistant Attorney General of the U.S. Department of Justice, Tax Division, Caroline D. Ciraolo of the Washington D.C. office and alleged Revenue Officer Debbie Okray be present at said hearing as well. See [DKT #40, Item V]

Plaintiff filed for the record the circumstances that constituted fraud upon the court in that he stated with particularity – the "who, what, when, where and how," including "the time, place, and content of an alleged misrepresentation". See [DKT #41]

It is also clear and well-settled Illinois law that **any attempt to commit "fraud upon the court" vitiates the entire proceeding.**

The People of the State of Illinois v. Fred E. Sterling, 357 Ill. 354; 192 N.E. 229 (1934) ("The maxim that fraud vitiates every transaction into which it enters applies to judgments as well as to

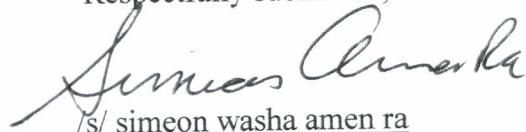
contracts and other transactions."); Allen F. Moore v. Stanley F. Sievers, 336 Ill. 316; 168 N.E. 259 (1929) ("The maxim that fraud vitiates every transaction into which it enters ..."); In re Village of Willowbrook, 37 Ill.App.2d 393 (1962) ("It is axiomatic that fraud vitiates everything."); Dunham v. Dunham, 57 Ill.App. 475 (1894), affirmed 162 Ill. 589 (1896); Skelly Oil Co. v. Universal Oil Products Co., 338 Ill.App. 79, 86 N.E.2d 875, 883-4 (1949); Thomas Stasel v. The American Home Security Corporation, 362 Ill. 350; 199 N.E. 798 (1935).

IN CLOSING

The United States Constitution guarantees an unbiased Judge who will always provide litigants with full protection of ALL RIGHTS. Plaintiff's personal liberties, due process rights are being infringed upon. Plaintiff is not receiving equal protection of the law. The acts of this court have given the appearance that is inconsistent with that which is needed for full, fair, impartial hearings. Furthermore it is Plaintiffs sincere belief that if Defendant had alleged fraud upon this honorable court it would have been addressed immediately and not only would justice be swift but a ruling for a dismissal in favor of Defendant would have been issued.

WHEREFORE, Plaintiff respectfully request that the Honorable Judge John Z. Lee immediately recuse himself within five (5) days of this motion in light of the explanation detailing questionable conduct or conduct which gives Plaintiff good reason to believe that this court will not hear the above case in a fair and impartial manner.

Respectfully submitted,



/s/ simeon washra amen ra

P.O. Box 199273
Chicago, Illinois 60619

Date: November 1, 2016

CERTIFICATE OF SERVICE

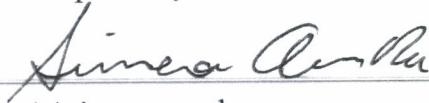
The undersigned, Pro se of record for the plaintiff, hereby certifies that on November 1, 2016, he served a copy of the above **PLAINTIFF'S MOTION TO RECUSE**, with the Clerk of the Court, and the same was served on the following:

CAROLINE D. CIRAOLO
Acting Assistant Attorney General
U.S. Department of Justice, Tax Division,
United States Attorney's Office
219 South Dearborn Street
5th Floor
Chicago, IL 60604

Bradley A. Sarnell
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 55
Washington D.C. 20044

By regular mail: USPS

Respectfully submitted,



/s/ simeon washra amen ra
P.O. Box 199273
Chicago, Illinois 60619

EXHIBT 1

10/31/2016

Re: Amen Ra v. United States, 1:14-cv-8295; Request to Conti... - simeon lewis

Re: Amen Ra v. United States, 1:14-cv-8295; Request to Continue Hearing

simeon lewis

Sarnell, Bradley A. (TAX) <Bradley.A.Sarnell@usdoj.gov>;
Nema Akhu El <nemu.akhu.el@gmail.com>; Icj <Icj0818@gmail.com>;

Dear Mr. Sarnell

No i do not consent.

The court has already change the hearing date three times without any regard for my injury or work schedule from 08/17/16 to 08/25/16/ to sixty days out on 10/25/16 and once again to 10/26/16. The company i work for is currently taking 85% of my pay based on the unconscionable acts of the IRS. Your administrative bureau has completely destroyed my family and life. I do not have another day to give. Thank you for contacting me in regards to your motion to continue the hearing but again i must say to you that i do not consent to a change in the hearing date. Justice delayed is justice denied.

Thank you for your time in advance.

From: Sarnell, Bradley A. (TAX) <Bradley.A.Sarnell@usdoj.gov>
Sent: Wednesday, October 19, 2016 6:30 PM
To: thechief1970@hotmail.com
Subject: Amen Ra v. United States, 1:14-cv-8295; Request to Continue Hearing

Dear Mr. Amen Ra:

I will be filing a motion to continue the Status Hearing currently scheduled for October 26, 2016, at 9:00 a.m. until either October 27, 2016, at 9:00 a.m. or November 1, 2016, at 9:00 a.m. Do you consent to the change in date or do you oppose it? If you consent, which of the two dates would you prefer?

Regards,

Bradley A. Sarnell

Trial Attorney

U.S. Department of Justice, Tax Division

Civil Trial Section - Northern Region

P.O. Box 55

Washington, DC 20044

Phone: (202) 307-1038

[Bradley.A.Sarnell@usdoj.gov]Bradley.A.Sarnell@usdoj.gov

EXHIBIT 2

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1.1
Eastern Division**

Simeon Washa Amen Ra

Plaintiff,

v.

Case No.: 1:14-cv-08295

Honorable John Z. Lee

Internal Revenue Service

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Friday, October 21, 2016:

MINUTE entry before the Honorable John Z. Lee: The status hearing set for 10/26/16 is reset to 12/21/16 at 9:00 a.m. Mailed notice(ca,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

Simeon Washa Amen Ra, Ex rel
SIMEON LEWIS
Plaintiff

vs.
INTERNAL REVENUE SERVICE,
UNITED STATES
Defendant, Respondent

} Case No: 14-cv-8295
} Honorable John Z. Lee
} JURY TRIAL DEMANDED

NOV 01 2016

THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

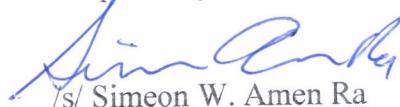
NOTICE OF FILING

TO: CAROLINE D. CIRAOLO
Acting Assistant Attorney General
U.S. Department of Justice, Tax Division,
United States Attorney's Office
219 South Dearborn Street
5th Floor
Chicago, IL 60604

Bradley A. Sarnell
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 55
Washington D.C. 20044

PLEASE TAKE NOTICE that on November 1, 2016, Plaintiff Simeon W. Amen Ra filed the attached **MOTION TO RECUSE**, with the Clerk of the Court of the United States District for the Northern District of Illinois, Eastern Division. A copy was hand delivered to United States Attorney's Office on the 5th Floor as well.

Respectfully submitted,


/s/ Simeon W. Amen Ra
P.O. Box 199273
Chicago, Illinois 60619